

FILED
JAN - 4 2010

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

WARD M. SMITHSON,

Civil Case No. 07-641-JE

Petitioner,

O R D E R

v.

JEAN HILL,

Respondent.

Tonia L. Moro
Assistant Federal Public Defender
101 SW Main Street, Suite 1700
Portland, Oregon 97204

Attorney for Petitioner

John R. Kroger
Attorney General

Jacqueline Sadker
Assistant Attorney General
Department of Justice
1162 Court Street NE
Salem, Oregon 97310

Attorney for Respondent

KING, Judge:


The Honorable John Jelderks, United States Magistrate Judge, filed Findings and Recommendation on December 8, 2009 (#57). Petitioner filed timely objections to the Findings and Recommendation.

When either party objects to any portion of a magistrate's Findings and Recommendation concerning a dispositive motion or prisoner petition, the district court must make a de novo determination of that portion of the magistrate's report. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); McDonnell Douglas Corp. v. Commodore Business Machines, Inc., 656 F.2d 1309, 1313 (9th Cir. 1981), cert. denied, 455 U.S. 920 (1982). This court has, therefore, given de novo review of the rulings of Magistrate Judge Jelderks.

This court ADOPTS the Findings and Recommendation of Magistrate Judge Jelderks (#57) dated December 8, 2009 in its entirety.

IT IS HEREBY ORDERED that the Amended Petition for Writ of Habeas Corpus (#13) is DENIED. The Court declines to issue a Certificate of Appealability.

DATED this 4 day of Jan 2010, 2009.


GARR M. KING
United States District Judge